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**From:**

**Sent:** Thursday, December 16, 2010 1:38:15 PM

**To:**

**Cc:**

**Subject:** RE: Sections 7122 6501 6702 intersect question

Please see below our responses to your questions. Our responses are based on the facts you provided and the assumption you asked us to make (that the Form 843 was mailed in       ). But we highly doubt that assumption should be made.

#2—Since no limitations period applies to a request for an abatement of penalties on Form 843, section 7502 does not apply. Thus, the Form 843 will be deemed filed on the date of receipt by the Service (       ).

#3—The amendments to section 6702, including the increased amount of the penalty, took effect on March 15, 2007 when the Service first issued a list of frivolous positions. See Notice 2007-30; Pub. L. No. 109-432, Div. A, Title IV, § 407(f). The amended statute imposing a higher penalty applies to “submissions made” after the list came out. If the taxpayer mailed the form in       , the list did not then exist and we believe it would be inappropriate to apply the higher penalty to the taxpayer.

#4—We note that Congress did not give the Secretary authority to reduce the penalty until the 2006 amendments, which would not apply to this case as explained in #3 above.

#5—Yes, we agree no limitations period applies to the section 6702 penalty when only a purported return, but not an actual return, is filed.

Please let me know if you have any other questions.